



**IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH (COURT- I) CHENNAI**

ATTENDANCE CUM ORDER SHEET OF THE HEARING
HELD ON **04.04.2025** THROUGH VIDEO CONFERENCING

PRESENT: HON'BLE SHRI. SANJIV JAIN, MEMBER (JUDICIAL)
HON'BLE SHRI. VENKATARAMAN SUBRAMANIAM, MEMBER (TECHNICAL)

APPLICATION NUMBER :
PETITION NUMBER :CP(IB)/115(CHE)/2019
NAME OF THE PETITIONER(S) :Mamtha Steels Corporation
NAME OF THE RESPONDENTS :Yosmite Engineering Pvt Ltd
UNDER SECTION :Sec 9 Rule 6 of IBC, 2016

ORDER

Present: None for the Petitioner.

None for the Respondent.

Vide separate order pronounced in Open Court, the petition is allowed and Ms. Asha Rathod is appointed as the RP.

Sd/-

(VENKATARAMAN SUBRAMANIAM)
MEMBER (TECHNICAL)

MG

Sd/-

(SANJIV JAIN)
MEMBER (JUDICIAL)



IN THE NATIONAL COMPANY LAW TRIBUNAL,
DIVISION BENCH – I, CHENNAI

CP(IB)/115(CHE)/2019

*(filed under Section 9 of the Insolvency and Bankruptcy Code, 2016 r/w Rule
6 of the Insolvency and Bankruptcy (Petition to Adjudicating Authority)
Rules, 2016)*

In the matter of Yosmite Engineering Private Limited

Mamtha Steels Corporation,

Represented by its Proprietor Mr.Vasanram,
New No. 21/15, Mogappair Road,
Padi, Chennai-600 050

... Operational Creditor / Petitioner

-Vs-

Yosmite Engineering Private Limited,

No. 5, New St., Balaji Industrial Estate,
Ambattur, Chennai-600 053

.... Corporate Debtor/Respondent

Order Pronounced on 4th April, 2025

CORAM:

SANJIV JAIN, MEMBER (JUDICIAL)

VENKATARAMAN SUBRAMANIAM, MEMBER (TECHNICAL)

For Operational Creditor: Shri. Kumarpal Chopra, Advocate

Ms.Akshaya, Advocate

For Corporate Debtor: Mr. Pradeep Jayaraman, Advocate

ORDER

(Hearing conducted through VC)



Under Adjudication is the petition CP/1B/115/2019 filed by **Mamtha Steels Corporation, Represented by its Proprietor Mr.Vasanram,** hereinafter referred to as “**Operational Creditor/Petitioner**”) under Section 9 of the Insolvency & Bankruptcy (Application to Adjudicating Authority) Rules, 2016 against **Yosmite Engineering Private Limited** (hereinafter referred to as “**Corporate Debtor/Respondent**”). The prayer made is to admit the petition to initiate the Corporate Insolvency and Resolution Process against the Corporate Debtor, declare moratorium and appoint Interim Resolution Professional (“IRP”).

2. **Part-I** of the petition sets out the details of the Operational Creditor. It is seen that the Operational Creditor is a Sole Proprietorship Firm. As per **Part-II** of the petition, the Corporate Debtor is a Private Limited Company with Corporate Identification Number U74900TN2010OPTC078417. It has its Registered Office at New No. 17, Arwins Garden, Plot No. 17A, Vallalar Street, Mugappair West, Chennai-600 037. However, as per the MCA records, the Registered Office of the Corporate Debtor is at Old No.58, New No.16, F1, KC Vaishnavi Apartments, 8th Street, Vaishnavi Nagar, Chennai-



600 062. In **Part-III** of the petition, the Operational Creditor has not proposed the name of any Interim Resolution Professional and left it to the discretion of this Tribunal to appoint the same.

3. **Part-IV** of the petition signifies the total amount of debt to the tune of Rs.57,16,918.10 (Rupees Fifty Seven Lakhs Sixteen Thousand Nine Hundred and Eighteen and Ten Paise only) as the outstanding dues that is payable by the Corporate Debtor. The principal debt amounts to Rs.54,70,735 (Rupees Fifty Four Lakhs Seventy Thousand Seven Hundred and Thirty Five only) and interest is Rs.2,46,183.10 upto 26.10.2018 for the delay beyond 30 days @ 18% per annum till the date of realisation.

4. **Part-IV** of the petition describes the particulars of Operational Debt, documents, records and evidence of default as prescribed below:

- i) Demand Notice sent as per Form – III & IV dated 05.12.2018 issued by Applicant – Annexure-I
- ii) Outstanding Statements – Annexure-II
- iii) Ledger Copies – Annexure-III
- iv) Letter of Statement – Annexure-IV
- v) Acknowledgment receipts – Annexure-V
- vi) Purchase Orders – Annexure-VI



- vii) Whatsapp conversation between the Applicant and the Respondent - Annexure-VII
- viii) Messenger conversation between the Applicant and the Respondent - Annexure-VIII
- ix) Demand Notice dated 27.10.2018 - Annexure-IX

5. In the present case, this Tribunal vide an order dated 27.07.2023, had dismissed the petition filed by the Operational Creditor under Section 9 of IBC, 2016 seeking to initiate CIRP against the Corporate Debtor on the ground that there seems to be a plausible dispute between the parties which requires further investigation. Against the said order, the Petitioner / Operational Creditor preferred an appeal vide (Company Appeal (AT) (CH) (Ins) No. 381/2023 before the Hon'ble NCLAT and the Hon'ble NCLAT vide an order dated 16.12.2024, disposed of the appeal and held as under:

“14. Owing to the aforesaid fact, the very logic which has been assigned in the Impugned Order dated 27.07.2023, as rendered in the Company Petition IB No. (IBA)115/CHN/2019, is perverse and contrary to the evidence on record. The same would stand ‘quashed’, the Section 9 of I & B Code, application preferred by the Appellant would stand ‘allowed’, directing the Ld. Adjudicating Authority to appoint the Interim Resolution Professional (IRP) and to carry on the CIRP proceedings as per Section 9 of the I & B Code, as per law.”



6. It was observed by the Hon'ble NCLAT that weak defence has been sought to be raised by the Respondent stating that no demand notice was sent on 05.12.2018, which is absolutely misconceived, owing to the fact that by the WhatsApp messages which were exchanged after the date of the notice i.e. 05.12.2018, the Respondent had acknowledged the existence of debt with an assurance to pay as is evident from the WhatsApp message on 18.12.2018 whereby the Respondent had assured to remit the amount on the next date. Looking to the communications and admission of liability by the Respondent, it is clear that there existed a financial debt arising out of a business transaction which in spite of raising of the demand, admittedly was not remitted even after a proper issuance of notice under Section 8 of IBC.

The Hon'ble NCLAT quashed the order of this Tribunal and allowed the petition filed under Section 9 of IBC directing the Tribunal to appoint IRP and to carry on the CIRP proceedings as per Section 9 of IBC, as per law.



7. In compliance with the order of the Hon'ble NCLAT whereby the petition under section 9 of IBC, 2016 filed by Operational Creditor has been allowed, and the fact that the Operational Creditor has not proposed any name of the Interim Resolution Professional as seen from Part-III of the petition.

8. We are therefore of the considered view that the Operational Creditor has successfully demonstrated and shown the existence of debt and the default committed by the Corporate Debtor. Hence the Application, as filed by the Operational Creditor, is required to be **admitted** under Section 9(5) of the IBC, 2016. We accordingly admit the petition and order for initiation of CIRP against the Corporate Debtor viz., Yosemite Engineering Private Limited.

9. In the present case, the Operational Creditor has not proposed any Insolvency Resolution Professional in Part – III of the Application. This Tribunal therefore appoints **Ms. Asha Rathod, with Registration No. IBBI/IPA-001/IP-P-02017/2020-2021/13108** (AFA valid upto 31.12.2025) to act as Interim Resolution Professional for the Corporate Debtor. The IRP appointed shall take in this regard such other and further steps as are required under the Code, more specifically in terms



of Section 15, 17, 18 of the Code and file the report within 20 days before this Bench. The powers of the Board of Directors of the Corporate Debtor shall stand superseded as a consequence of the initiation of the CIRP in relation to the Corporate Debtor in terms of the provisions of IBC, 2016.

10. As a consequence of the Application being admitted in terms of Section 9 (5) of the Code, the moratorium as envisaged under the provisions of Section 14(1) and as extracted hereunder shall follow in relation to the Corporate Debtor:

- a. The institution of suits or continuation of pending suits or proceedings against the respondent including execution of any judgment, decree or order in any court of law, tribunal, arbitration panel or other authority;
- b. Transferring, encumbering, alienating or disposing of by the respondent any of its assets or any legal right or beneficial interest therein;
- c. Any action to foreclose, recover or enforce any security interest created by the respondent in respect of its property



including any action under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002;

d. The recovery of any property by an owner or lessor where such property is occupied by or in the possession of the respondent.

Explanation.-For the purposes of this sub-section, it is hereby clarified that notwithstanding anything contained in any other law for the time being in force, a licence, permit, registration, quota, concession, clearance or a similar grant or right given by the Central Government, State Government, local authority, sectoral regulator or any other authority constituted under any other law for the time being in force, shall not be suspended or terminated on the grounds of insolvency, subject to the condition that there is no default in payment of current dues arising for the use or continuation of the license or a similar grant or right during moratorium period;

11. However, during the pendency of the moratorium period in terms of Section 14(2) (2A) and 14(3) as extracted hereunder:

(2) The supply of essential goods or services to the Corporate Debtor as may be specified shall not be terminated or suspended or interrupted during moratorium period.

(2A) Where the interim resolution professional or resolution professional, as the case may be, considers the supply of



goods or services critical to protect and preserve the value of the Corporate Debtor and manage the operations of such Corporate Debtor as a going concern, then the supply of such goods or services shall not be terminated, suspended or interrupted during the period of moratorium, except where such Corporate Debtor has not paid dues arising from such supply during the moratorium period or in such circumstances as may be specified.

- (3) The provisions of sub-section (1) shall not apply to
 - (a) such transactions, agreements or other arrangement as may be notified by the Central Government in consultation with any financial sector regulator or any other authority;
 - (b) a surety in a contract of guarantee to a corporate debtor.



12. The duration of the period of moratorium shall be as provided in Section 14(4) of the Code and for ready reference reproduced as follows:

- (4) The order of moratorium shall have effect from the date of such order till the completion of the Corporate Insolvency Resolution Process:

Provided that where at any time during the Corporate Insolvency Resolution Process period, if the Adjudicating Authority approves the Resolution Plan under sub-Section (1) of Section 31 or passes an order for liquidation of Corporate Debtor under Section 33, the moratorium shall cease to have effect from the date of such approval or Liquidation Order, as the case may be.

13. The Operational Creditor is directed to pay a sum of **Rs.2,00,000/- (Rupees Two Lakh only)** to the Interim Resolution Professional upon the Interim Resolution Professional filing the necessary declaration form as required under the provisions of the Code to meet out the expenses to perform the functions assigned to him in accordance to Regulation 6 of Insolvency and Bankruptcy Board



of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.

14. Based on the above terms, the petition **CP/IB/115(CHE)/2019** stands **admitted** in terms of Section 9(5) of IBC, 2016 and the moratorium shall come in to effect as of this date. A copy of the Order be communicated to the Operational Creditor as well as to the Corporate Debtor above named by the Registry. In addition, a copy of the Order be forwarded to IBBI for its records. Further, the Interim Resolution Professional above named is also furnished with copy of this Order forthwith by the Registry, who will also communicate the initiation of the CIRP in relation to the Corporate Debtor to the Registrar of Companies concerned.

Sd/-
VENKATARAMAN SUBRAMANIAM
Member (Technical)

Sd/-
SANJIV JAIN
Member (Judicial)